



Request for Quotation

Issue Date: January 12, 2024

RFQ# 24-53

Title: Washington Pool Filter Repair

Issuing Agency: City of Charlottesville – Parks Division

Project Name/Location: Washington Park Pool, 1001 Preston Ave. Charlottesville, VA 22902

All quotes submitted in response to this solicitation must comply with all aspects of the requirements of the RFQ.

All Inquiries For Information Should Be Directed To:

Project Manager: Daniel McClung

Email: mcclungd@charlottesville.gov

Phone: 434-970-3582

Quotations in response to this RFQ will be received by the Project Manager no later than 2:00 PM (local prevailing time) on January 26, 2024. Quotations received after the time designated for receipt will not be considered.

Quotations must be in writing and shall be submitted to the attention of the Project Manager using one of the following methods:

Mail: 1300 Pen Park Road, Charlottesville, Virginia 22901

In Person (includes courier service): 1300 Pen Park Road, Charlottesville, Virginia 22901

Email: Refer to the Project Manager's email address specified above

"This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, disability, or any other basis prohibited by state law relating to discrimination in employment."

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- I. **COMPETITION INTENDED:** It is the City's intent that this Request for Quotation (RFQ) permits competition. It shall be the bidder's responsibility to advise the Purchasing Agent in writing if any language requirement, specification, etc. or any combination thereof, inadvertently restricts or limits the requirements stated in this RFQ to a single source. Such notification must be received by the Purchasing Agent not later than five (5) days prior to the date set for bids to close.
- II. **MINORITY BUSINESS PROGRAM:** As part of the City of Charlottesville's Minority Business Program, the City of Charlottesville encourages the participation of small, women, minority, veteran and micro-owned businesses (SWaM-O) in the City's procurement transactions. In order to support and build up the capacity of SWaM-O businesses, City Council and staff have taken steps to push forward policy changes and initiatives to help reduce barriers to doing business with the City. To find out more about the current City of Charlottesville initiatives and programs please visit the Minority Business Program website at www.charlottesville.gov/purchasing.

III. **PROJECT DESCRIPTION:**

PART 1: GENERAL

Contractor will remove all filter media and laterals from two existing Neptune Benson 84DRF-8 filters. All new media and laterals are to be installed. All adjustable jack legs are to be replaced with new legs. An existing leak shall be repaired by replacing an 8" tee and 4-8" flanges and gaskets. All pipe material to be schedule 80. Contractor to provide all materials, labor and remove all debris from the site.

Neptune Benson Project number 73008.

PART 2: PRODUCTS: Omitted

PART 3: EXECUTION:

Workmanship, Quality, Safety, & Conduct:

- A. The Contractor shall hold a current and valid Commonwealth of Virginia Contractor's License.
- B. All work shall be performed in compliance with the Related Documents.
- C. All work shall be performed by thoroughly trained and highly experienced tradesmen who are familiar with the requirements of this work.
- D. All work shall be representative of high-quality commercial construction standards. Rejection of unacceptable work is solely at the Owner's discretion. Remedy, and related costs, of work deemed unacceptable shall be the responsibility of the Contractor.
- E. Regulations: Permits are required. Comply with industry standards and applicable laws and regulations of authorities having jurisdiction including, but not limited to:
 - i. Building Code requirements;
 - ii. Health and safety regulations;
 - iii. Utility company regulations;
 - iv. Police, Fire Department and Rescue Squad rules; and,
 - v. Environmental protection regulations.
- F. Standards: Specifications for quality, execution, and installation shall be primarily governed by the manufactures' written specifications and instructions for the respective task or component of this project. Specifications for quality, execution, and installation shall be secondarily governed by leading industry standards, as determined by the Owner, for the respective task or component of this project.
- G. Inspections:
 - i. Permit Inspections: Coordinate with jurisdiction having authority.
 - ii. Third Party Testing and Inspection: Coordinate with Owner's representative.
- H. The Contractor shall unconditionally warrant all work described herein for a period of one year from the date of project completion and acceptance by the Owner.

- I. Bonds: Bonds (bid bonds, or, payment and performance bonds) are not required for bid/contract amounts less than \$200,000.
- J. The Contractor is responsible for not damaging the Owner's property as part of this work. Where damage is caused, by the Contractor, to the Owner's property, the Contractor shall be responsible for the cost of all repairs. The Contractor is responsible for documenting any existing damage prior to beginning work.
- K. The Contractor shall verify all existing conditions and dimensions prior to commencement of work and shall advise the Owner immediately upon discovery of variances between site conditions and the Related Documents.
- L. The Contractor shall comply with all legally mandated safety precautions.
- M. The Contractor shall maintain a high level of worker and site safety.
- N. All Contractor employees, staff, visitors, or sub-contractors shall wear and/or display ID at all times while on site; and, all workers shall conduct themselves in a safe, professional, and courteous manner.
- O. Smoking is prohibited at all facilities owned, operated, or managed by the City of Charlottesville or Charlottesville City Schools.

Air Quality, Environmental, & Noise:

- A. The Contractor shall comply with all legally mandated environmental regulations and precautions. For any release of fluid, or other material, which could be considered an environmental contaminate the Contractor shall immediately stop the Work, initiate spill response procedures, call emergency responders (if prudent), and contact the Owner's Construction Manager assigned to the Project. When required, contact the appropriate regulating authority.
- B. If necessary and determined by the Owner, the Contractor shall provide and maintain dust enclosures and walk-off mats so as ensure that all dust, debris, and aromas associated with the work are contained within the immediate Project Work Area.
- C. Any work that may produce annoying or hazardous dust, aroma, or fumes shall be performed during hours when tenant, staff, or patrons are not scheduled to be present. Coordinate such work periods with the City's Construction Manager.
- D. The Owner understands that, by the nature of this work, that noise may be a factor. However, for periods of excessive noise caused by the project work, the Contractor shall identify those periods on the schedule he submits after contract award and prior to commencement of work. See Part 4, below, for limitations and special working hours.
- E. If necessary and determined by the Owner, any HVAC supply and return apparatus, within the affected Project Work Area, shall be sealed and/or filtered during this work by the Contractor. The Contractor shall coordinate HVAC shut-off, sealing, or filtering with the City's Construction Manager, or other designated staff, as required.
- F. When finishing gypsum wall board (GWB), or performing other operations which generate high levels of dust, all sanding (or dust generating work) shall be performed using vacuum collection devices which collect dust as the work is being performed.
- G. The City has a goal, for this project, of 85% re-use and recycle of demolition debris. The Contractor shall provide certification as to the percentage (by weight) of recycled construction debris.

Finishing and Clean-up:

- A. Conform to manufacturers' recommendations in the use of chemical cleaners.
- B. Remove all errant drips, spills, splatters, etc. from the project work area.
- C. Protect all finishes and components until the work is turned over to the Owner.
- D. Remove scrap materials and packaging from the work area and dispose of properly.
- E. Generally clean and remove debris at the end of each work day.
- F. Thoroughly clean the Project Work Areas upon completion of work and prior to the work being turned over to the Owner.

PART 4: SCHEDULE, LOGISTICS, & SITE CONDITIONS

Work Schedule:

- A. All work shall be performed per the following schedule:
 - i. January 12, 2024: Work may begin on or after this date
 - ii. March 22, 2024: Substantial Completion
 - iii. March 29, 2024: Final Completion (all punch-list and close out requirements complete)
- B. Following are Available Working Hours:
 - i. Monday-Friday: 7:00 am - 6:00 pm
 - ii. Other times as agreed to by the Owner.
- C. Notice to Proceed (NTP) will be in the form of a written Purchase Order. Within one week of the date of the NTP, the Contractor shall provide a basic project schedule suitable to the Owner (include work start, milestones, substantial completion, and final completion) and in compliance with Sections 'A' and 'B' directly above.
- D. Prior to beginning any work at the site, a pre-construction meeting is to be held and shall include the following: Owner's tenant, Owner's Project Manager, Owner's Construction Manager, and Contractor.

Site Conditions:

- A. Work will occur in an occupied and working facility, care shall be taken to minimize disruptions and avoid hazards to staff and patrons using the facility. At the end of each work period, the following shall be performed by the Contractor:
 - i. Barricade the Project Work Area and all work in progress to prevent access by school or City staff;
 - ii. Return all areas, in and around the Project Work Area, to a clean and orderly condition.
 - iii. Clean and secure all work access and/or hauling routes (within the facility) to and from the Project Work Area.
- B. Any exterior fabrication shall be negotiated with the Owner. Clean-up of debris (slurry, dust, etc.) from such operations is the Contractor's responsibility.
- C. Electricity and water supply is available, within reason, by the Owner as provided in the Project Work Area.
- D. Any shut-down in service (water, electricity, etc.) shall be coordinated with the Owner. The Contractor shall provide 72 hour notice of any required service shut-down.

IV. GENERAL TERMS AND CONDITIONS:

- A. ANTI-DISCRIMINATION: By submitting their bids, bidders certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginias with Disabilities Act, the Americans with Disabilities Act and Code of Virginia §2.2-4311, §2.2-4311.2, and §2.2-4312 . If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, or disability, and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia § 2.2.4343.1E and Code of the City of Charlottesville Chapter 2, Article XV, § 2-431).

Every contract over \$10,000 shall include the provisions:

- 1. During the performance of this contract, the contractor agrees as follows:
 - a. During the performance of this contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, disability, or any other basis

prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, shall state that it is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements of this section.
- d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the City may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from City contracting regardless of whether the specific contract is terminated.

- 2. The contractor will include the provisions of No. 1 above in every subcontract or purchase order over \$10,000, so that the provision will be binding upon each subcontractor or vendor.

- B. ANTI-DISCRIMINATION OF CONTRACTORS: A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, disability, or, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the City has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- C. ANTI-DISCRIMINATION OF FAITH-BASED ORGANIZATIONS: The City of Charlottesville does not discriminate against faith-based organizations.
- D. ANTITRUST: By entering into a contract, a contractor conveys, sells, assigns, and transfers to the City of Charlottesville all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Charlottesville under said contract.
- E. APPLICABLE LAWS & COURTS: Refer Article 21 of the Supplemental Terms and Conditions.
- F. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.
- G. AWARD OF CONTRACT: Award will be made to the lowest responsive/responsible bidder based on the PRICING SCHEDULE, SEE ATTACHMENT A. Public notice of the award of this contract, or the announcement of the decision to award this contract, shall be given in the following manner: posting of a written notice on the City's website at <https://www.charlottesville.gov/purchasing>, under the Bids and Proposals link.
- H. BID ACCEPTANCE: Bids will be date and time stamped upon receipt and retained unopened in

a secure location until bid opening. No consideration will be given to date of postmark or error in delivery to incorrect address. It is the responsibility of the bidder to ensure timely and correct delivery of bid.

- I. BID ACCEPTANCE PERIOD: Each bid submitted must be and remain valid for a period of at least sixty (60) days from bid opening. Erroneous bids may be reclaimed or superseded any time prior to bid opening time; Modification of or corrections to bids are not acceptable after bids have opened. Any new bid must be marked with the additional notation "Supersedes all previous submissions." No bidder may withdraw his bid from consideration after bid opening due to a mistake, except as permitted by the Code of Virginia §2.2-4330.
- J. BID TABULATIONS: Tabulations of bids are a matter of public record and are available upon request.
- K. BID/PROPOSAL PRICE CURRENCY: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.
- L. BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION: The City's SAP electronic solution offers vendor self-service registration. Vendors are not required to register prior to bidding; however, purchase orders cannot be issued and payment to vendors cannot be processed to a non-registered vendor. Go to <https://www.charlottesville.gov/purchasing>.
- M. CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways per the requirements of the City's Internal Contracts Management Policy:
 - a. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. No fixed price contract may be increased by more than ten percent (10%) or \$25,000 without the advance approval of the City Manager or designee, and under no circumstances may the amount of this contract be increased, without adequate consideration, for any purpose (including, but not limited to, relief of the Contractor from the consequences of an error in its bid or offer).
 - b. The City may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the City a credit for any savings. Said compensation shall be determined by one of the following methods:
 - 1. By mutual agreement between the parties in writing; or
 - 2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the City's right to audit the contractor's records and/or to determine the correct number of units independently; or
 - 3. By ordering, the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the City with all vouchers and records of expenses incurred and savings realized. The

City shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the City within thirty (30) days from the date of receipt of the written order from the City. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the City or with the performance of the contract generally.

- N. CLARIFICATION OF TERMS: The City will assume no responsibility for oral instructions, suggestion or interpretation of this RFQ. Any question regarding the solicitation documents and/or specifications shall be directed to the issuing agency designated on page 1 and any material change will be submitted to all bidders/offers through issuance of an addendum. Any questions related to this RFQ MUST be submitted to the city staff listed on page 1 no fewer than five (5) work days prior to the date set by this RFQ for receipt of bids by the City. Questions should be in writing and electronic transmission is preferred. Questions submitted beyond the time specified above may be left unanswered if sufficient time does not allow a response to all prospective bidders/offers without causing an unacceptable delay in the process.
- O. CONTRACTOR'S FORMS/BOILERPLATE CONTRACTS: All written agreements, contracts, service agreements, account applications, forms and other documents, of any nature, that the Contractor would require the City to sign in connection with any contract resulting from this procurement transaction, or the performance thereof by the Contractor, must be submitted along with the Contractor's bid. Under no circumstances shall the City be required to agree to any contractual provision (i) that would materially conflict with any requirement(s) of this RFQ, (ii) that would affect the price, quality, quantity or delivery schedule for any goods or services, (iii) that would conflict with any requirement of the Code of Virginia, Virginia Public Procurement Act or the Charlottesville City Code, or (iv) that would, in the City's sole discretion, materially alter the overall combination of quality, price and various elements of required services that in total are optimal relative to the City's needs, and the Contractor shall not condition its performance or delivery upon any such agreement by the City.
- P. CONTRACTOR LICENSE REQUIREMENTS: State statutes and regulatory agencies require that some firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. If firms provide removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of the Agreement. It is the firm's responsibility to comply with the rules and regulations issued by the appropriate State regulatory agencies. A copy of the license must be furnished upon request to the City of Charlottesville.
- Q. CONTRACTUAL CLAIMS: Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. The City has established an administrative procedure for consideration of contractual claims, and a copy of such procedure is available upon request from the City's Procurement and Risk Management Services Division. Contractual disputes shall also be subject to the provisions of the Code of Virginia §2.2-4363(D) and (E) (exhaustion of administrative remedies) and §2.2-4364 (legal actions. Resolution of a claim by the City or its administrative appeals panel shall not relieve a Contractor of the requirement to submit any invoice(s) as a condition of receiving payment of specific amount(s) from the City.

- R. DEBARMENT STATUS: By participating in this procurement, bidders/offerors certify that they are not currently debarred by the federal government, the Commonwealth of Virginia, or any local government or public authority from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation. Bidder/Offeror further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently so debarred. If a bidder/offeror is created or used for the purpose of circumventing a debarment decision against another bidder/offeror, the non-debarred bidder/offeror will be debarred for the same time period as the debarred bidder/offeror.
- S. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have.
- T. DRUG-FREE WORKPLACE CLAUSE: Applicable for all contracts over \$10,000. During the performance of this contract the contractor agrees as follows: (i) to provide a drug-free workplace for the contractor's employees; (ii) to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace. For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done in connection with the contract awarded to a contractor in accordance with this procurement transaction, where the contractor's employees are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- U. ERROR IN EXTENSION OF PRICES: In the case of an error in the extension of prices, the unit price shall govern.
- V. ETHICS IN PUBLIC CONTRACTING: Per the Code of Virginia §2.2-4367, by submitting a bid/proposal, the bidder/offeror certifies that their bid/proposal is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder/offeror, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- W. EXTRA CHARGES NOT ALLOWED: Bidders will not be allowed extra compensation for conditions which could have been determined by examination of the documents and/or the site prior to submission of bids.
- X. HEADINGS: Section, article and paragraph headings contained within this Request for Quote have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this Request for Quote.
- Y. IDLING REDUCTION REQUIREMENT: Bidders/Offerors, contractors and sub-contractors are required to comply with the City of Charlottesville's Idling Reduction Policy for Motor Vehicles and Equipment, policy number 100-12. This policy can be made available to any Bidder/Offeror or sub-contractor by submitting an email request to purchasing@charlottesville.gov.
- Z. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Applicable to all contracts over

\$10,000. By entering into a written contract with the City of Charlottesville, the bidder/offeror certifies that the bidder/offeror does not, and shall not during the performance of the contract for goods and services in the Commonwealth of Virginia, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- AA. INCLEMENT WEATHER/CLOSURE OF CITY OFFICES: If the City of Charlottesville is closed for business on the date and time set by this solicitation for receipt of bids/proposals, then bids/proposals will be accepted on the next scheduled business day up to the time of day specified on the original date specified for receipt of bids/proposals.
- BB. INDEMNIFICATION: Contractor shall indemnify and hold harmless the City, its officers, agents and employees from and against any and all liabilities, damages, and costs arising out of third party claims, to the extent caused by the willful misconduct, negligent act, error or omission of the Contractor or anyone for whom the Contractor is legally responsible, subject to any limitations of liability expressly set forth within this Contract.
- CC. INSPECTION OF JOB SITE: The bidder/offeror is responsible for thorough examination of the documents and the project site prior to responding to the solicitation.
- DD. INSURANCE: By signing and submitting a bid/proposal under this solicitation, the bidder/offeror certifies that if awarded the contract, it will purchase and maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the following types of coverages and minimum limits, protecting from claims which may arise out of or result from the bidder's/offeror's performance or non-performance of services under this Contract, or the performance or non-performance of services under this Contract by anyone directly or indirectly employed by the bidder/offeror or for whose acts it may be liable:
- a. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the City of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract. This policy shall specifically list Virginia as a covered state.
 - b. Employer's Liability - \$100,000. This policy shall specifically list Virginia as a covered state.
 - c. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. The City of Charlottesville and its officers, employees, agents and volunteers must be named as an additional insured and so endorsed on the General Liability policy.
 - d. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be operated or driven on city property while under contract.)
 - 1. Companies relying on use of employees' personal vehicles must provide proof of "non-owned" or "for-hire" automobile liability coverage.

All insurance coverage:

- 1. shall be issued by an insurance carrier authorized to do business within the Commonwealth of Virginia and rated A- VIII or better, by A. M. Best Company or equivalent rating from an alternate recognized ratings agency, and otherwise acceptable to the City;
- 2. shall be kept in force throughout performance of services;
- 3. shall be an occurrence based policy;
- 4. shall include completed operations coverage;

5. shall contain a cross liability or severability of interest clause or endorsement. Insurance covering the specified additional insured shall be primary and non-contributory, and all other insurance carried by the additional insureds shall be excess insurance;
6. where additional insured required, such policy shall not have a restriction on the limits of coverage provided to the City as an additional insured. The City shall be entitled to protection up to the full limits of the bidder's policy regardless of the minimum requirements specified in the Contract.

Proof Of Insurance: Prior to performance of any services or delivery of goods, the Bidder shall (i) have all required insurance coverage in effect; (ii) the Bidder shall deliver to the City certificates of insurance for all lines of coverage, or other evidence satisfactory to the City in its sole discretion. The Bidder shall be responsible that such coverage evidenced thereby should not be substantially modified or canceled without 30 days prior written notice to the City; and (iii) the Bidder shall deliver to the City endorsements to the policies which require the City and its officials, officers, employees, agents and volunteers be named as "additional insured". Policies which require this endorsement include: Commercial General Liability. Such endorsements must be approved by the City, and (iv) upon the request of the City, provide any other documentation satisfactory to the City in its sole discretion, evidencing the required insurance coverage, including but not limited to a copy of the insurance policy and evidence of payment of policy premiums. The Bidder shall require each of its subcontractors and suppliers to have coverage per the requirements herein in effect, prior to the performance of any services by such subcontractors and suppliers. Further, the Bidder shall ensure that all Required Insurance coverages of its subcontractors and suppliers is and remains in effect during performance of their services on the Project and certifies by commencement of the Work that this insurance and that of subcontractors is in effect and meets the requirements set forth herein. The City shall have no responsibility to verify compliance by the Bidder or its subcontractors and suppliers.

Effect Of Insurance: Compliance with insurance requirements shall not relieve the Bidder of any responsibility to indemnify the City for any liability to the City, as specified in any other provision of this contract, and the City shall be entitled to pursue any remedy in law or equity if the Bidder fails to comply with the contractual provisions of this contract. Indemnity obligations specified elsewhere in this Contract shall not be negated or reduced by virtue of any insurance carrier's denial of insurance coverage for the occurrence or event which is the subject matter of the claim, or by any insurance carrier's refusal to defend any named insured.

Waiver Of Subrogation: The Bidder agrees to release and discharge the City of and from all liability to the Bidder, and to anyone claiming by, through or under the Bidder, by subrogation or otherwise, on account of any loss or damage to tools, machinery, equipment or other property, however caused.

Sovereign Immunity: Nothing contained within this RFQ shall effect, or shall be deemed to affect, a waiver of the City's sovereign immunity under law. No contract awarded as a result of this procurement transaction shall contain any provisions requiring the City to waive or limit any sovereign or governmental immunity to which it may be entitled.

Right to Revise or Reject: The City reserves the right, but not the obligation, to revise any insurance requirement not limited to limits, coverages and endorsements, or reject any insurance policies which fail to meet the criteria stated herein. Additionally, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally.

- EE. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS FOR RFQs:** Failure to submit a bid on the official City form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Request for Quote may be cause for

rejection of the bid; however, the City reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the City may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid, which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

FF. NEW EQUIPMENT: Unless otherwise noted any equipment bid shall be new, unused, of current production and standard to the manufacturer. Where any part or nominal appurtenances of equipment are not described it shall be understood that all equipment and appurtenances standard to or recommended by the manufacturer for complete and safe use shall be included as part of this bid.

GG. OSHA STANDARDS: All contractors and subcontractors performing services for the City are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and City Safety and Occupational Health Standards and any other applicable rules and regulations. In addition, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

HH. OWNERSHIP OF DOCUMENTS: All information, documents, and electronic media furnished by the City to the Contractor belong to the City, are furnished solely for use in connection with the Contractor's performance of Services required by this Agreement, and shall not be used by the Contractor on any other project or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than Services rendered to the City hereunder is specifically authorized in writing by the City in advance. All documents or electronic media prepared by or on behalf of the Contractor for the City are the sole property of the City, free of any retention rights of the Contractor. The Contractor hereby grants to the City an unconditional right of use, for any purpose whatsoever, documents or electronic media prepared by or on behalf of the Contractor pursuant to this Agreement, free of any copyright claims, trade secrets, or any other proprietary rights with respect to such documents.

II. PAYMENT: Refer to [Article 14](#) of the Supplemental Terms and Conditions.

JJ. PERMITS AND FEES: All bids submitted shall have included in price the cost of any business or professional licenses, permits or fees required by the City of Charlottesville and the Commonwealth of Virginia. The bidder must have all necessary licenses to perform the services in Virginia and, if practicing as a corporation, be authorized to do business in the Commonwealth of Virginia.

KK. PUBLIC INSPECTION OF CERTAIN RECORDS: Except as otherwise provided, and in accordance with Va. Code §2.2-4342, all proceedings, records, contracts and other public records relating to the City's procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Code of Virginia §2.2-3700 et seq). Any bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event the City decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Trade secrets or proprietary information submitted by a bidder in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the bidder (i) invokes the protections of the Code of Virginia §2.2-4342 prior to or upon submission of the data or other materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. A general designation of a contractor's entire bid submission as being "confidential" shall not be sufficient to invoke the

protections referenced above.

- LL. QUALIFICATIONS OF BIDDERS/OFFERORS: The City may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder/offeree to perform the services/furnish the goods and the bidder/offeree shall furnish to the City all such information and data for this purpose as may be requested. The City reserves the right to inspect bidder's/offeree's physical facilities prior to award to satisfy questions regarding the bidder's/offeree's capabilities. The City further reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder/offeree fails to satisfy the City that such bidder/offeree is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- MM. RIGHT TO ACCEPT OR REJECT BIDS: The City reserves the right to accept or reject any or all bids in whole or in part and to waive any informality in the bid. Informality shall be defined as a minor defect or variation from the exact requirements, which does not affect the price, quality, quantity or delivery schedule.
- NN. SCHOOL CONTRACTOR CERTIFICATION: Contractor acknowledges that the implementation of the above-referenced contract for services may require Contractor, Contractor's employees or other persons within Contractor's control to have direct contact with City of Charlottesville Public School students on school property during regular school hours or during school-sponsored activities. As evidenced by the authorized signature below, Contractor hereby certifies to the City of Charlottesville and to the Charlottesville City School Board that all persons who will provide such services for or on behalf of the Contractor on public school property have not been convicted of a felony or any offense involving the sexual molestation, or physical or sexual abuse, or rape of a child, or the solicitation of any such offence; or, any crime of moral turpitude.
- OO. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE: It is the policy of the City of Charlottesville to facilitate the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities and service-disabled veterans and to encourage their participation in the City's procurement activities. Toward that end the City of Charlottesville encourages these firms to compete and encourages other firms to provide for the participation of these firms through partnerships, joint ventures, subcontracts or other contractual opportunities. **Bidders are asked, as part of their submission, to describe any planned use of such business in fulfilling this contract.**
- PP. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: Pursuant to the Code of Virginia §2.2-4311.2 subsection B,), a bidder/offeree organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder/offeree that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid/proposal a statement describing why the bidder/offeree is not required to be so authorized. Any business entity described above that enters into a contract with a public body pursuant to the Code of Virginia, Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required by Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void a contract with a business entity if the business entity fails to remain in compliance with the provisions of this section. Link to the Virginia State Corporation Commission site: <http://www.scc.virginia.gov/>.
- QQ. TAXES: Include only taxes applicable to the project in this bid. The City is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate indicating the City's tax-exempt

status will be furnished by the City of Charlottesville upon request.

RR. TESTING AND INSPECTION: The City reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

SS. USE OF BRAND NAMES: Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict bidders/offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article that the City, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder/offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder clearly indicates in its bid/proposal that the product offered is an equal product, such bid, proposal will be considered to offer the brand name product referenced in the solicitation.

TT. The requirements of this RFQ shall be deemed incorporated into any contract resulting from this procurement transaction, as if set forth therein verbatim.

V. SUPPLEMENTAL TERMS AND CONDITIONS FOR CONSTRUCTION PROJECTS:

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ARTICLE 1

THE CONTRACT DOCUMENTS

- 1.1 **City Disclaimer Of Warranty:** The City makes no representation or warranty, of any nature whatsoever, to the General Contractor concerning the documents for the Project. The General Contractor hereby acknowledges and represents that it has not, does not, and will not rely upon any representations or warranties by the City concerning such documents, as no such representations or warranties have been or are hereby made.
- 1.2 **Conflicts In Documents:** In the event any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract for Construction, the following shall control:
- i. As between figures given on plans and scaled measurements, the figures shall govern;
 - ii. As between large-scale plans and small-scale plans, the large-scale plans shall govern;
 - iii. As between plans and specifications, the requirements of the specifications shall govern;
 - iv. As between the General Terms and Conditions of the Contract and the plans or specifications, the General Conditions shall govern;
 - v. As between the Construction Contract Form (or Purchase Order) and the General Terms and Conditions of the Construction Contract, the Contract Form (or Purchase Order) shall govern.
 - vi. As between the Supplemental Terms and Conditions and any General Terms and Conditions or the Contract Form, the Supplemental Terms and Conditions shall govern.
- 1.3 **Sufficiency of Construction Documents:** By its submission of Bid, the General Contractor acknowledges that it has received and carefully reviewed and evaluated the Construction Documents and agrees that the Construction Documents are complete, accurate, adequate, consistent, coordinated and sufficient for bidding, negotiating, costing, pricing and construction of the Project.

ARTICLE 2

GENERAL CONTRACTOR'S DUTIES, OBLIGATIONS AND RESPONSIBILITIES

- 2.1 **Sufficiency of Site Conditions:** Prior to submission of its Bid, the General Contractor certifies that it has:
- i. visited the Site and become familiar with local conditions under which the Project is to be constructed and operated;
 - ii. reviewed and familiarized itself with the Site survey and any existing structures on the Site, and gathered all other information necessary for a full understanding of its obligations under this Contract;
 - iii. reviewed all available as-built and record drawings, plans and specifications; and,
 - iv. thoroughly inspected the structure(s) and man-made feature(s) to be modified or remodeled prior to submission of its Bid, but in all events prior to signing this Contract For Construction.
- 2.2 **Performance Of Work:** The General Contractor shall supervise and complete its obligations under this Contract For Construction, using its best skill and attention. The General Contractor shall furnish management, supervision, coordination, labor and services which (i) expeditiously, economically and properly complete its scope of the Work; (ii) comply with the requirements of this Contract For Construction; and, (iii) are performed in a workmanlike manner and in accordance with the standards currently practiced by persons and entities performing or providing comparable management, supervision, labor and services on projects of similar size, complexity and cost.
- 2.2.1 The General Contractor shall commence performance of its obligations under this Contract for Construction, upon receipt of a written notice to proceed issued by the City.
 - 2.2.2 The General Contractor shall not damage, endanger, compromise or destroy any part of the Work, Site, or any existing building elements. It is the General Contractor's responsibility to

document any existing damage prior to commencing work. The General Contractor is responsible for any damage caused by its actions.

- 2.2.3 All services rendered by the General Contractor shall be performed by or under the immediate supervision of persons possessing expertise in the discipline of the service being rendered.
- 2.2.4 The General Contractor shall, in the performance of its obligations under this Contract for Construction, cooperate and communicate with the City and all other persons or entities working for or with the City, as necessary for satisfactory and timely completion of the Project.
- 2.2.5 The General Contractor understands and acknowledges that the Scope of Work referred to in this Contract For Construction may be only part of the Project and that the Project may include the construction of other structures or other construction activities on the same Site.
- 2.2.6 The General Contractor shall conduct all its activities so as not to interfere with the construction of, or other construction activities on the Site.
- 2.2.7 The General Contractor shall conduct all its activities so as not to interfere with ongoing business and other activities at the site.
- 2.2.8 The General Contractor shall be responsible for obtaining all licenses necessary to use any invention, article, appliance, process or technique, of whatever kind, and shall pay all royalties and license fees associated therewith.

2.3 **Compliance With Governmental Requirements:**

- 2.3.1 The General Contractor shall comply with all applicable laws, statutes, codes, building codes, rules, regulations and lawful orders of all governmental, public and quasi-public authorities and agencies having jurisdiction over the Work, the Project and the Site;
- 2.3.2 The General Contractor shall give all notices required of it by governmental authorities relating to the Work, the Project, or the Site;
- 2.3.3 The General Contractor certifies that it does not and will not during the performance of the Contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
- 2.3.4 The provisions of all rules and regulations, in force in the Commonwealth of Virginia as of the date of this contract, shall apply to all Work under this Contract.
- 2.3.5 The Virginia Uniform Statewide Building Code applies to the Work and is administered by the local Building Official. The Building Permit will be obtained by the General Contractor and paid for by the Contractor. All other permits, local license fees, business fees, taxes or similar assessments shall be obtained and paid for by the Contractor.
- 2.3.6 The General Contractor, if not licensed as an asbestos abatement contractor, shall have all asbestos-related Work performed by subcontractors who are duly licensed as asbestos contractors or RFS contractors-
- 2.3.7 The General Contractor, if not licensed as a lead abatement contractor, shall have all lead-related Work performed by subcontractors who are duly licensed as lead abatement contractors.
- 2.3.8 If the General Contractor violates laws or regulations that govern the Project, the General Contractor shall indemnify and hold the City harmless from and against any fines and/or penalties that result from such violation. To the extent that such violation is the result of negligence or other actionable conduct of the General Contractor, the General Contractor shall indemnify and hold the City harmless against any third party claims, suits, awards, actions, causes of action or judgments, including but not limited to attorney's fees and costs incurred thereunder, that result from such violation.

- 2.4 **Safety:** Safety shall be a prime concern of the General Contractor at all times. The General Contractor shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures for coordinating and performing construction, including Site safety and safety precautions and programs.

- 2.5 **As-Built Drawings:** The General Contractor shall maintain at the Site at least one copy of all Contract Documents including drawings, specifications, addenda, approved shop drawings, change orders,

submittals, and other modifications, in good order and accurately marked, depicting all changes as they occur during construction. The as-built drawings shall be available at all times to the City, the Professional(s), and the City's consultants, including quality control and testing agency personnel. The drawings shall be neatly and clearly marked in color during construction to record all variations made during construction, and the General Contractor shall include such supplementary notes and details necessary to clearly and accurately represent as-built construction.

- 2.6 **Quality Control And Testing:** Unless otherwise provided in this Contract For Construction, the City shall select the quality control and testing agencies and pay for the cost of specified measures and tests required by the Construction Documents. The General Contractor shall be responsible for the coordination of all tests and inspections and shall arrange for tests and inspections to be conducted as necessary to avoid any interference with the progress of Work. No claims for extension of time or extra costs will be allowed on account of any testing, retesting, inspection, re-inspection, or rejection of Work when defective or deficient Work is found.
- 2.7 **Incident Reporting:** The General Contractor shall immediately notify the City and Professional(s), both orally and in writing, of the nature and details of all incidents which may adversely affect the quality or progress of the Work including, but not limited to, union jurisdictional disputes, accidents, delays, damages to Work and other significant occurrences.
- 2.8 **Hazardous Substances Notice:** The General Contractor shall immediately notify the City and the Professional(s), both orally and in writing, of the presence and location of any physical evidence of, or information regarding, environmental contamination on the Site (including but not limited to Hazardous Substances and petroleum releases) of which it becomes, or reasonably should have become, aware. If the General Contractor encounters environmental contamination (including but not limited to Hazardous Substances and petroleum releases), the General Contractor shall (i) immediately stop performance of Work or that portion of the Work affected by or affecting such contamination; (ii) secure the contaminated area against intrusion; (iii) not disturb or remove the contamination; (iv) not proceed, or allow any subcontractor or supplier to proceed, with any Work or other activities in the area affected by such contamination until directed to do so by the City; and, (v) take any other steps necessary to protect life and health.
- 2.9 **City's Use of and Access to the Site:** The General Contractor shall perform the Work so as not to interrupt any ongoing business operations or other construction activities on the Site.
- 2.10 **Site Control And Cleanup:** During construction, the General Contractor shall maintain good order on the Site. The General Contractor shall maintain the Site in a reasonably clean condition during performance of the Work and shall periodically remove from the Site all construction debris. Upon completion of the Work, the General Contractor shall thoroughly clean the Site of all debris, trash, excess materials and equipment.
- 2.13 **Other:** The General Contractor will be responsible for any duties, obligations, and responsibilities as detailed herein.

ARTICLE 3

GENERAL CONTRACTOR'S PERSONNEL, SUBCONTRACTORS, AND SUPPLIERS

- 3.1 **Project Staffing:** The General Contractor shall staff the Project with qualified individuals and entities responsible for its obligations and performance hereunder.
- 3.1.1 The General Contractor shall, in writing, on or before the Commencement Date specified in the Notice to Proceed issued by the City, name a representative (the "Builder's Representative") to serve as its primary communication contact with the City and the Professional(s).

- 3.1.2 The General Contractor shall employ persons and/or sub-contractors skilled in the tasks assigned to them and capable of working harmoniously with all trades, crafts and other individuals on the Project.
- 3.1.3 The General Contractor shall immediately remove from the Site, for the duration of the Project, any personnel, including personnel of any subcontractor, making an inappropriate racial, sexual or ethnic comment, statement or gesture toward any other individual.
- 3.1.4 The General Contractor shall immediately remove from the Site, for the duration of the Project, any personnel, including personnel of any subcontractor, who is incompetent or careless.
- 3.1.5 The General Contractor shall not perform any construction work unless he, and his sub-contractors, have obtained, and continue to maintain for the duration of such work, such workers' compensation coverage as may be required pursuant to relevant provisions of the Code of Virginia.
- 3.1.6 The General Contractor shall not perform any construction work unless he (i) has obtained, and continues to maintain for the duration of such work, such workers' compensation coverage as may be required pursuant to the provisions of Chapter 8 (§65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended and (ii) provides prior to the award of contract, on a form furnished by the department, agency, or institution of the Commonwealth or political subdivision thereof, evidence of such coverage. Contractor shall not allow any subcontractor to perform any work on a City construction project unless the subcontractor has obtained, and continues to maintain for the duration of such work, such worker's compensation coverage as may be required pursuant to the provisions of Chapter 8 (§65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended. Contractor shall include the provisions of this paragraph within each of its subcontracts, so as to bind each subcontractor.

3.2 Subcontractor / Supplier Contracts:

- 3.2.1 The General Contractor shall engage each of its subcontractors and suppliers with written contracts which preserve and protect the rights of the City and include the acknowledgment and agreement of each subcontractor or supplier that the City is a third-party beneficiary of the contract. The General Contractor's agreements with its subcontractors and suppliers shall require that in the event of default under, or termination of, this Contract For Construction, and upon request of the City, the General Contractor's subcontractors and suppliers will perform services for the City.
 - 3.2.2 The General Contractor shall include in its agreements with its subcontractors and supplier(s) a provision which contains the acknowledgment and agreement of the subcontractor or supplier that it has received and reviewed the applicable terms, conditions and requirements of this Contract For Construction that are included by reference in its written contract with the General Contractor, and that it will abide by those terms, conditions and requirements.
- 3.3 The General Contractor shall be fully responsible to the City for all acts and omissions of his agents and employees and all succeeding tiers of subcontractors and suppliers performing or furnishing any of the Work. Nothing in the Contract Documents shall create any contractual relationship between the City or the Professional and any subcontractor, supplier or other person, nor shall it create any obligation on the part of the City or Professional to pay for or to see to the payment of any money or monies due to any subcontractor, supplier or other person except as may otherwise be required by law.
- 3.4 The General Contractor shall be fully responsible for its invitees to and at the Site, and for those of its subcontractors, suppliers and their employees, including any acts or omissions of any such invitee.
- 3.5 The General Contractor agrees that it alone is responsible for all dealings with its subcontractors and suppliers.
- 3.6 The General Contractor shall promptly resolve claims, complaints, labor disputes and disputes over assignment of work tasks by and among its subcontractors and suppliers.

ARTICLE 4 GOODS, PRODUCTS AND MATERIALS

- 4.1 **Quality Of Materials:** The General Contractor shall furnish goods, products, materials, equipment and systems which:
- i. comply with the requirements of this Contract For Construction;
 - ii. conform to applicable specifications, descriptions, instructions, drawings, data and samples;
 - iii. are new (unless otherwise specified or permitted) and without damage;
 - iv. are of quality, strength, durability, capacity or appearance equal to or higher than that required by the Construction Documents;
 - v. are merchantable;
 - vi. are free from defects; and,
 - vii. beyond and in addition to those required by manufacturers' or suppliers' specifications where such additional items are required by the Construction Documents.
- 4.2 **Installation And Use Of Materials:** All goods, products, materials, equipment and systems named or described in the Construction Documents, and all others furnished as equal thereto shall, unless specifically stated otherwise, be furnished, used, installed, employed and protected in strict compliance with the specifications, recommendations and instructions of the manufacturer or supplier.
- 4.3 **Security For Work In Progress:** The General Contractor shall provide its own security for its Work in progress and for the goods, products, materials, equipment, systems, construction machinery, tools, devices and other items required, used or to be used for its scope of the Work.

ARTICLE 5 DOCUMENTS AND INFORMATION

- 5.1 **Information From City:** The City shall provide the General Contractor with information reasonably necessary to assist the General Contractor in performing its services including, if applicable:
- i. the Site legal description and any required survey;
 - ii. all written and tangible material in its possession concerning conditions below ground at the Site;
 - iii. if the Project involves an existing structure, all available as-built drawings, record drawings, plans, specifications and structure system information with respect to such structure; and,
 - iv. the City's pertinent Project dates and key milestone dates.
- 5.2 **Sufficiency Of City Information:** The furnishing of information by the City to the General Contractor shall not relieve the General Contractor of its responsibility to evaluate information and documents provided by the City. The General Contractor shall timely notify the City in writing of any additional information needed or services required from the City in order for the General Contractor to perform the Work.

ARTICLE 6 SUBMITTALS

- 6.1 **Submittal Schedule:** Within a reasonable time, but no later than fifteen (15) days after execution of the Contract for Construction, the General Contractor shall timely prepare and transmit to the City or designated Professional a schedule for provision of all anticipated shop drawings and other submittals. The schedule shall (i) include submittals required by the specifications; (ii) be in a format acceptable to the City; and, (iii) set forth specific dates for submission of the listed submittals.
- 6.2 **Processing Of Submittals:** The General Contractor shall in timely fashion review, approve if appropriate, and forward shop drawings and other submittals to the City, via its CM, for review and approval along with such detail and information as the City, CM, or Professional requires. No part of the Work dealt with by a submittal shall be fabricated or performed by the General Contractor, except at his own risk, until such approval has been given.

6.2.1 The General Contractor shall perform all Work in accordance with approved submittals.

- 6.2.2 Submittals shall be forwarded to the City sufficiently in advance of construction requirements to allow reasonable time for review. Submittals shall be accompanied by a letter of transmittal which shall list the Project Title, the Submittals included, the specification section number applicable to each, and the date shown on each Submittal. Each Submittal shall be clearly marked to show each item, component, and/or optional feature proposed to be incorporated into the Project and cross referenced to the plans or specifications.
- 6.2.3 The General Contractor shall check all Submittals for compliance with the requirements of the Contract Documents. The Contractor shall clearly note, in writing, any and all items which deviate from the requirements of the Contract Documents, and the reason(s) for deviation shall be included with the Submittal. Deviations shall be marked in bold face type or lettering and listed on a separate page or pages containing the heading "DEPARTURES FROM DRAWINGS AND SPECIFICATIONS."
- 6.2.4 If a Submittal indicates a departure from the requirements of the Contract Drawings, Specifications or other requirements of the Contract Documents, then the City or Professional may reject the Submittal; or, if it is deemed to have merit, may be approved or rejected as the City, in its sole discretion, sees fit. Any departure from the Contract Documents must be further authorized by a Change Order, if a reduction or increase in the Contract Price is appropriate.

ARTICLE 7 GENERAL CONTRACTOR'S INSPECTION OF AND CORRECTION OF DEFECTIVE OR INCOMPLETE WORK

- 7.1 **Rejection And Correction Of Work In Progress:** During the course of the Project, the General Contractor shall inspect and promptly reject any Work (i) which does **not** conform to the Construction Documents; or (ii) which does not comply with any applicable law, statute, code, building code, rule or regulation of any authorities and agencies having jurisdiction over the Project.
 - 7.1.1 The General Contractor shall promptly correct or require the correction of all rejected Work and shall bear all costs of correcting such Work, including additional testing and inspections and compensation for all services and expenses necessitated by such correction.
 - 7.1.2 The General Contractor shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, of the City or other trade contractors or subcontractors caused by the General Contractor's correction or removal of rejected Work.
- 7.2 **Covered Or Concealed Work:** If a portion of its scope of the Work has been covered, the General Contractor shall, if notified to do so by the City or a Professional, uncover the designated portion for observation and then replace it.
 - 7.2.1 If the designated portion of the Work was covered contrary to the request of the City or the Professional, or to requirements specifically expressed in the Construction Documents, the General Contractor shall receive no additional compensation for the costs of uncovering and replacement or modification of the Construction Schedule.
 - 7.2.2 If the designated portion of the Work was covered in accordance with the contract documents and prior to a specific request by the City or the Professional that it remain uncovered, the General Contractor shall receive additional compensation for the costs of uncovering and replacement or modification of the Construction Schedule(s) if the designated portion of the Work was found to be in conformance with the Construction Documents.

ARTICLE 8 CHANGE ORDERS AND CHANGES TO THE WORK

- 8.1 **Proposed Change Order (PCO) Requests:** Any party to the construction process may request changes to the Work, compensation or applicable schedules.

- 8.1.1 With respect to such requests for changes by the General Contractor, the General Contractor shall prepare and submit a PCO request to the City's CM.
 - 8.1.2 With respect to requests for changes by parties other than the General Contractor, the General Contractor shall promptly review and respond to any such PCO requests submitted by the City or Professional.
 - 8.1.3 When requested to do so, the General Contractor shall prepare and submit to the City's CM drawings, specifications or other data in support of a PCO request.
 - 8.1.4 Each PCO shall detail time and monetary impacts of the change, whether the change order is considered alone or with all other changes the course of the project.
- 8.2 **Construction Change Directive:** The City, by Construction Change Directive, and without invalidating or breaching the Contract, may direct the General Contractor to implement changes in the Work so long as the Work the City is requiring is not outside of the general scope of this Contract For Construction, and the General Contractor, upon written direction from the City, shall proceed with such change.
- Construction Change Directives may be utilized to order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, the Contract Price and Contract Time to be adjusted accordingly. A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
- 8.3 **Administration Of Changes:** The City's CM will administer and manage all PCO requests and change orders.
- 8.4 **Design Changes:** The City or Professional will prepare required drawings, specifications and other supporting data as necessary in connection with minor changes, PCO requests and change orders.
- 8.5 **Compensation For Changes:** With respect to all change order requests involving credit to the City or additional compensation to the General Contractor, the General Contractor shall (i) obtain from subcontractors and suppliers the best possible price quotations; (ii) review such quotations to ascertain whether they are reasonable; (iii) prepare an itemized accounting together with appropriate supporting data, including reasonable expenditures by, and savings to, those performing the scope of the Work involved in the proposed change; and, (iv) provide a reasonable price quotation to the designated Professional.
- 8.6 **Performance Of Changes:** Upon receipt of a construction change directive or approved change order the General Contractor shall proceed to promptly perform the change in the Work. All changes in the Work shall be performed under applicable conditions of the Construction Documents.
- 8.7 **Disputes Regarding Changes:** If the General Contractor disputes a decision regarding: (i) whether a change has occurred; (ii) whether a change in the Work will result in adjustment of its compensation or applicable schedules; or (iii) the amount of any adjustment of compensation or applicable schedules, the General Contractor shall notify the City in writing of the dispute. Once placed in dispute the General Contractor shall nevertheless carry out the change, if directed so to do by City. The General Contractor will not prejudice any claim that it may have with respect to that change so long as the General Contractor notifies the City in writing; however, failure to timely notify the City in writing shall constitute the General Contractor's waiver of any claim resulting from the change.
- 8.8 **Necessity For Signed Writing:** No act, omission or course of dealing shall alter the requirement that change orders must be in writing and signed by the City, and that change orders are the exclusive method for effecting any adjustment to the General Contractor's compensation or applicable schedules.
- 8.9 **Work Subject to Change Order.** Neither the General Contractor nor any subcontractor(s) shall commence any work which is, or by provisions of this Contract is required to be, the subject of a change order, unless and until the required Change Order has been fully executed by both the City and the General Contractor.

ARTICLE 9 FINANCIAL CLAIMS AND LIENS

- 9.1 **Notification Regarding Liens:** The General Contractor shall immediately notify the City and Professional(s), both orally and in writing, of the nature and details of any mechanics' liens, construction liens, builder's trust fund claims, or claims of any type made by anyone against the City, the Professional(s), the General Contractor or any subcontractor or supplier of any of them or against the Project whether or not such claims arise from the Work.
- 9.2 **Discharge of Liens:** The General Contractor shall take all action necessary to obtain the prompt discharge of any liens or claims filed against the Project. If any lien or claim filed against the Project is not discharged and released by the claimant, the General Contractor shall, within a reasonable period of time, but in no event more than fourteen (14) calendar days after request and at its own cost, promptly obtain discharge and release of such lien or claim by filing the appropriate bond. If the General Contractor fails to have any such lien or claim discharged and released, or fails to file the appropriate bond, the City shall have the right to pay all sums necessary to obtain such a discharge and release, and the General Contractor shall bear and be liable to the City for all expenses incurred by the City in so doing, including, without limitation, reasonable attorneys fees.

ARTICLE 10 CITY'S CONSULTANT(S), PROFESSIONAL(S) AND CONSTRUCTION ADMINISTRATION

- 10.1 **City's Designated Construction Management Representative:** The City will designate a Construction Manager (CM) to the Project. The CM may be a City employee or a contracted construction management professional. In either case, the CM shall act as the City's representative from the effective date of this Contract until completion of close-out and Project Completion.
- 10.1.1 **Communication:** Unless otherwise directed by the City, the City and the General Contractor shall communicate with each other in the first instance through the CM.
- 10.1.2 The CM will act as initial interpreter of the requirements of this Contract and as the City's advisor on claims.
- 10.1.3 **CM Rejection Of Work:** The CM, or the City, may disapprove or reject Work which does not comply with (i) this Contract For Construction including approved shop drawings and other submittals; or (ii) applicable laws, statutes, codes, building codes, rules or regulations of any authorities and agencies having or asserting jurisdiction over the Project.
- 10.1.4 **Change Order Activities:** The CM will administer and manage all change order requests and change orders on behalf of the City.
- 10.1.5 **Pay Application Activities:** The CM will review applications for payment, including such accompanying data, information, and schedules as required to determine the amounts due to the General Contractor and shall authorize that payment be made by the City to the General Contractor.
- 10.1.6 **Submittal Activities:** The CM will initially review, approve, reject, or take other appropriate action on submittals (e.g., shop drawings, product data, samples, proposed equal materials or equipment and requested substitutions). When necessary, the CM will forward submittals to the City or Professional for additional review, approval, or rejection. All submittal approval or rejection will be transmitted from the CM to the General Contractor within fourteen (14) calendar days from the date of receipt. The City, CM, or Professional will not approve any submittals unless such submittals conform with (i) the Project design concept; (ii) this Contract For Construction; and, (iii) the City's budgeted Total Project Construction Cost.
- 10.1.7 **CM Site Visits:** The CM will visit the Site with sufficient frequency for familiarization with the progress and quality of the Work.
- 10.1.8 **CM Evaluations:** The CM will review and evaluate the results of all inspections, tests and written reports required by this Contract For Construction and by any governmental entity having or asserting jurisdiction over the Project. The CM will take appropriate action on test results, including acceptance, rejection, requiring additional testing or corrective work, or

when necessary, the CM will forward the test and inspection reports to the City or Professional for additional review, approval, or rejection. The City will promptly reject Work which does not conform to and comply with testing requirements. All inspection and testing approvals or rejections will be transmitted from the CM to the General Contractor.

10.2 **City's Designated Professional Design Representative:** Unless otherwise directed by the City, the Design Professional appointed by the City shall act as the City's design representative for this Project.

10.2.1 The Professional will consult with and advise the City on all design and technical matters as requested by the City

10.2.2 The Professional will act as the City's advisor on claims.

10.2.3 **Professional Rejection Of Work:** The Professional, or the City, may disapprove or reject Work which does not comply with (i) this Contract For Construction including approved shop drawings and other submittals; or (ii) applicable laws, statutes, codes, building codes, rules or regulations of any authorities and agencies having or asserting jurisdiction over the Project.

10.2.4 **Professional Change Order Activities:** The Professional will consult with and advise the City, when requested by the City, on PCO requests and change orders on behalf of the City.

10.2.5 **Professional Interpretations:** The Professional shall, when requested to do so in writing by the City, promptly and so as to cause no unnecessary delay, render written or graphic interpretations and decisions necessary for the proper execution of the Work. The Professional's interpretations and decisions relating to artistic effect shall be final, if not inconsistent with this Contract.

10.2.6 **Professional Site Visits:** The Professional may, as requested by the City, visit the Site with sufficient frequency for familiarization with the progress and quality of the Work and to inspect the Work for substantial compliance with (i) this Contract For Construction.

ARTICLE 11 INSPECTION, CORRECTION OF WORK, AND PROJECT CLOSE OUT

11.1 **Substantial Completion:** Substantial Completion of the General Contractor's Work shall be deemed to have occurred on the first day on which both of the following circumstances exist: (i) the General Contractor's Work passes, or has passed, a Substantial Completion inspection, and (ii) the General Contractor has produced all required Substantial Completion documentation and items.

11.3 **Final Completion:** Final Completion of the General Contractor's Work shall be deemed to have occurred on the first day on which both of the following circumstances exist: (i) the General Contractor's Work passes, or has passed a Final Completion inspection, and (ii) the General Contractor has produced all required Final Completion close-out documentation and items.

11.3.1 On or prior to the date of Final Completion, the General contractor shall deliver to the City the following Final Completion close-out documentation and items:

- i. all operating and instruction manuals and required maintenance stocks;
- ii. One set of as-built drawings and markups;
- iii. full, final and unconditional waivers of mechanics or construction liens, releases of builder's trust fund or similar claims, and release of security interests or encumbrances on the Project property from each contractor, subcontractor, supplier or other person or entity who has, or might have a claim against the City or the real property which is the subject of this Construction Contract;
- iv. full, final and unconditional certification that all of the General Contractor's obligations to contractors, subcontractors, suppliers and other third parties for payment for labor, materials or equipment related to the Project have been paid or otherwise satisfied;
- v. all written warranties and guarantees relating to the labor, goods, products, materials, equipment and systems incorporated into the General Contractor's scope of the Work, endorsed, countersigned, and assigned as necessary;

- vi. affidavits, releases, bonds, waivers, permits and other documents necessary for final close-out of Work;
- vii. a list of any item(s) due but unable to be delivered and the reason for non-delivery; and,
- viii. any other documents reasonably and customarily required or expressly required herein for full and final close-out of the General Contractor's Work.

11.3.2 The CM, or the Professional if required, will review and determine the sufficiency of all Final Completion close-out documentation and items required for Final Completion which are submitted by the General Contractor, and will immediately inform the General Contractor of any deficiencies and omissions.

ARTICLE 12 GENERAL CONTRACTOR'S WARRANTIES AND GUARANTEES

- 12.1 **One-Year Warranty:** In addition to the warranties and guarantees set forth elsewhere in this Contract For Construction, for a period of one (1) year after the date of Substantial Completion, or the date of acceptance by the City, whichever is later, the General Contractor shall, upon request by the City or the Professional, promptly correct all failures or defects in the Work.
- 12.2 **Express Warranties And Guarantees - General Contractor:** In addition to the warranties and guarantees set forth elsewhere herein, the General Contractor expressly warrants and guarantees to the City:
- i. that the Work complies with the Construction Documents as well as all applicable laws, statutes, codes, building codes, rules and regulations of all governmental, public and quasi-public authorities and agencies having jurisdiction over the Project;
 - ii. that all goods, products, materials, equipment and systems incorporated into the Work conform to applicable specifications, descriptions, instructions, drawings, data and samples and shall be and are (a) new (unless otherwise specified or permitted) and without apparent damage or defect; (b) of quality equal to or higher than that required by the Construction Documents; and, (c) merchantable; and
 - iii. that all management, supervision, labor and services required for the Work is and shall be in compliance with the requirements of this Contract For Construction, and that the Work is and shall be performed in a workmanlike manner.
- 12.3 **Express Warranties And Guarantees - Subcontractors And Suppliers:** The General Contractor shall require that each of its subcontractors and suppliers provide written warranties, guarantees and other undertakings to the City and the General Contractor in a form identical to the warranties, guarantees and other undertakings set forth in this Contract For Construction which warranties, guarantees and undertakings shall run to the benefit of the City, Related Parties, and the successors in interest and assigns of each, as well as the General Contractor.
- 12.4 **Non-Exclusivity And Survival:** The warranties and guarantees set forth in this Article, shall be in addition to all other warranties, whether express, implied or statutory, and they shall survive the City's payment, acceptance, inspection of or failure to inspect the Work, and review of the Construction Documents.
- 12.5 **Commencement Of Obligations:** Unless otherwise specified, all of the General Contractor's warranty and guaranty obligations, including the time period(s) for all written warranties and guarantees of specifically-designated equipment required by the Construction Documents, shall begin on the actual date of Substantial Completion or the date of acceptance by the City, whichever is later.

ARTICLE 13 CITY'S DUTIES, OBLIGATIONS AND RESPONSIBILITIES

- 13.1 **City's Representative:** The City shall designate a Construction Manager (CM) to serve as the City's primary communication contact with the General Contractor.
- 13.2 **City's General Duties**
- 13.2.1 The City shall timely compensate the General Contractor in accordance with this Contract For Construction.
- 13.2.2 The City shall secure and pay for all Project testing.
- 13.2.3 The City shall review documents prepared by the General Contractor in a timely manner and in accordance with schedule requirements.
- 13.2.4 The City shall not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the General Contractor, for any of the foregoing purposes, be deemed the agent of the City.

ARTICLE 14 GENERAL CONTRACTOR'S COMPENSATION

- 14.1 **Unit Prices:** If any portion of the Contract Price is determined by the application of unit prices, the number of units contained in the General Contractor's Compensation Schedule is an estimate only, and the compensation to the General Contractor shall be determined by the actual number of units incorporated in, or required by, the Work.
- 14.2 **Schedule Of Values:** Within the time designated within this Contract for Construction, the General Contractor shall prepare and present to the City the General Contractor's schedule of values, apportioning the Construction Contract Price among the different elements of the scope of the Work, for purposes of periodic and final payment. Upon the Professional and City's acceptance of the Schedule of Values, as evidenced by the Professional's signature, the Schedule of Values shall be used to process and pay the General Contractor's payment requests and shall be deemed to constitute a reasonable, balanced basis for payment of the Contract Price to the General Contractor. The Schedule of Values shall not be changed without written change order authorized by the City.
- 14.3 **Invoicing Procedures:** In accordance with the procedures and requirements set forth in this Article, the General Contractor shall invoice the City and the City shall pay the General Contractor the Construction Contract Price. The General Contractor shall submit invoice(s) for completed work monthly or at project completion. Invoice amounts shall represent only work completed at the date of the invoice and amounts for work completed shall be apportioned according to the Schedule of Values. Invoices shall include:
- i. the total Construction Contract Price;
 - ii. the value of the various phases or parts actually performed during the period covered by the invoice;
 - iii. any previously invoiced amounts and credit payments made; and
 - iv. the total amount due, less any Retainage.
- 14.4 **Payment Procedures:** Payment will be made by the City within thirty days from the date of receipt of a properly formatted and approved invoice.
- 14.4.1 If Contractor is an individual, then he or she shall register as a vendor with the City of Charlottesville and provide the City's Department of Finance with his Social Security Number **on or before** commencement of performance of construction services under this Contract. If Contractor is a proprietorship, partnership, or corporation, then Contractor shall register as a vendor with the City of Charlottesville and provide its federal employer identification number(s) to the City's Department of Finance **on or before** its commencement of performance of construction services under this Contract.

14.4.2 Unless otherwise specified within the Contract Documents, the City will make progress payments to the contractor, in installments based upon an estimated percentage of completion. With each installment, the contractor shall be paid at least ninety-five percent (95%) of the total amount earned withholding the balance as retainage to assure faithful performance of the contract. Amounts withheld may be included in the final payment to the contractor.

14.4.3 **Compensation of General Contractor's Subcontractors and Suppliers.** Within seven days after receipt of amounts paid to the General Contractor by the City, for work performed by a subcontractor, the General Contractor shall take one of the following two actions: (i) pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor; or (ii) notify the City and the subcontractor, in writing, of the contractor's intention to withhold all or a part of the subcontractor's payment, specifying the factual basis and reason for the nonpayment. The General Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment requirements with respect to each lower-tier subcontractor.

In the event that the General Contractor has not received payment from the City for work performed by a subcontractor under this Contract, the General Contractor will pay such subcontractor within sixty (60) days of the receipt of an invoice following satisfactory completion of the work for which the subcontractor issued the invoice. The General Contractor shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the terms of this Contract. However, in the event that the General Contractor withholds all or a part of the amount invoiced by the subcontractor under the terms of this Contract, the General Contractor shall notify the subcontractor within fifty (50) days of the receipt of such invoice, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier subcontractor responsible for the contractual noncompliance. Payment by the City pursuant to this Contract shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of the General Contractor's receiving payment for amounts owed to the General Contractor.

14.5 **City's Right To Refuse Payment:** The City shall have the right to refuse to make payment of any invoice, and, if necessary, may demand the return of a portion or all of the amount previously paid to the General Contractor due to:

- i. failure to perform its scope of the Work in compliance with the requirements of this Contract or any other agreement between the parties;
- ii. failure to correctly and accurately represent the work performed in a payment request, or otherwise;
- iii. performance of its scope of the Work at a rate or in a manner that, in the City's opinion, is likely to result in the Project or any portion of the Project being inexcusably delayed;
- iv. failure to use funds previously paid the General Contractor by the City, to pay General Contractor's Project-related obligations including, but not limited to, the General Contractor's subcontractors, material, labor, and suppliers;
- v. claims made, or claims likely to be made, against: (a) the City, (b) the property which is the subject of this Construction Contract, or (c) the Professional. The General Contractor's failure to attach to any invoice the lien waivers or other documentation required by section 15.3(vii) of this Construction Contract shall constitute prima facie evidence of such claims likely to be made;
- vi. loss caused by the General Contractor or the General Contractor's subcontractors, or suppliers; and,
- vii. the General Contractor's failure or refusal to perform any of its obligations to the City.

14.6 **Interest On Outstanding Amounts Due:** No interest shall accrue when payment is delayed due to a dispute between the City and the Contractor.

- 14.7 **Invoice Warranties And Guarantees:** The General Contractor expressly warrants and guarantees to the City that:
- i. title to all goods, products, materials, equipment and systems covered by an invoice will pass to the City.
 - ii. all goods, products, materials, equipment and systems covered by an invoice are free and clear of liens, claims, security interests or encumbrances; and,
 - iii. no goods, products, materials, equipment or systems covered by an invoice have been acquired by the General Contractor, or its subcontractors or suppliers, subject to any chattel mortgage or under a conditional sales or other agreement by which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the General Contractor, or its subcontractors or suppliers.
- 14.8 **General Contractor's Signature:** The signature of the General Contractor on any invoice constitutes the General Contractor's certification to the City that (i) the General Contractor's services listed in the invoice have progressed to the level indicated and have been performed as required by the Contract; (ii) the General Contractor has paid its subcontractors and suppliers, if any, their proportional share of all previous payments received from the City; and, (iii) the amount requested is currently due and owing.
- 14.9 **Taxes:** The General Contractor shall incorporate into the Contract Price, and shall pay, all sales, consumer, use and similar taxes for goods, products, materials, equipment and systems incorporated into its scope of the Work which were legally required at the time of execution of this Contract.
- 14.10 **Compensation of General Contractor's Subcontractors and Suppliers.** The General contractor shall be responsible for all compensation to its subcontractors related with the work under this contract. The City shall have no obligation to pay, and shall not be responsible for payments to the General Contractor's subcontractors, employees, or suppliers.
- 14.11 **Final Payment:** Prior to becoming entitled to receive final payment, and as a condition precedent thereto, the General Contractor must achieve Final Completion.

ARTICLE 15 SCHEDULE REQUIREMENTS

- 15.1 **Construction Schedule:** The General Contractor shall submit to the City a Construction Schedule, which shall include all pertinent dates and periods for timely completion of the Work. For contracts with a price of \$100,000 or less, the City may elect to use of a Bar Graph Schedule and it shall be time-scaled in weekly increments. The Construction Schedule shall include:
- i. the required Commencement Date, and the required dates of Substantial Completion and Final Completion;
 - ii. any guideline and milestone dates required by the City;
 - iii. any applicable subcontractor and supplier sub-schedules;
 - iv. a submittal schedule which allows sufficient time for review of documents and submittals;
 - v. the complete sequence of construction by activity, with dates for beginning and completion of each element of construction; and,
 - vi. required decision dates.
- 15.2 **Delay In Performance:** If at any time the General Contractor anticipates that performance of the Work will be delayed or in fact has been delayed, the General Contractor shall: (i) immediately notify the designated Professional of the probable cause of and effect from the delay, and possible alternatives to minimize the delay; and (ii) take all corrective actions reasonably necessary to deliver the Work by the required dates of Substantial Completion and Final Completion, and other milestone dates established by this Contract.

- 15.3 **Modifications To Time For Performance:** The General Contractor shall determine and promptly notify the City and the Professional(s) in writing when it believes adjustments to the required dates of Substantial Completion or Final Completion, or other milestone dates established by this Contract, are necessary. No such adjustments shall be effective unless approved in writing by the City and Professional(s).

ARTICLE 16 CONCEALED AND UNFORESEEN CONDITIONS

- 16.1 **Notification Regarding Unusual Conditions:** If (i) the General Contractor encounters concealed and unforeseen conditions, of an unusual nature, which affect the performance of the Scope of Work; or (ii) the site conditions vary from those indicated by the Construction Documents; and, (iii) such conditions are not ordinarily found to exist or differ materially from those generally recognized as inherent in work of the character provided by the General Contractor, the General Contractor shall promptly, but in no event later than three (3) calendar days after first observance of such conditions, notify the Professional and the City before conditions are disturbed, to give the Professional and the City an opportunity to observe the condition in its undisturbed state.
- 16.1.1 The conditions will be promptly investigated and, if they differ substantially and cause a material increase or decrease in the General Contractor's cost of, or time required for, performance of its scope of the Work, the General Contractor's compensation or time for performance or both will be equitably adjusted.
- 16.1.2 All adjustments in compensation or extensions of time attributable to unforeseen site conditions shall be by change order. Change order requests must be made within fourteen (14) calendar days from the date of observation of the changed conditions.
- 16.1.3 The General Contractor's failure to notify the Professional and City as required by this Article shall constitute a waiver of any claims, of any nature whatsoever, arising out of or relating to such concealed or unknown condition.

ARTICLE 17 GENERAL CONTRACTOR'S RECORDS

- 17.1 **Retention Of Records:** Except as otherwise specifically provided in this Construction Contract, the General Contractor shall keep and retain records pertaining to this Project, including, without limitation, copies of all specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, accounting records, documents reflecting the unit price of construction and other writings, electronic messages, transmissions or recordings, and other items which document the Project, its design, and its construction. The General Contractor shall maintain all such records for a period of five (5) years after the date of Final Completion, or for any longer period of time as may be required by law or good construction practice. If the General Contractor receives notification of a dispute or the commencement of litigation regarding the Project within this five (5) year period, the General Contractor shall continue to maintain all Project records until final resolution of the dispute or litigation.
- 17.2 **Access To Records:** Upon the request of the City, the General Contractor shall make its records available to the City (including, without limitation, the City's authorized or designated representatives), and to the representatives or agents of any state, federal or other regulatory authority requesting such records, during normal business hours.

ARTICLE 18 PROPRIETARY DOCUMENTS AND CONFIDENTIALITY

- 18.1 **Nature And Use Of Information:** All information, documents, and electronic media furnished by the City to the General Contractor (i) belong to the City; (ii) are proprietary records of the city; (iii) are furnished solely for use on the Project; (iv) shall be kept confidential by the General Contractor; and

(v) shall not be used by the General Contractor on any other project or in connection with any other person or entity.

- 18.2 **City Ownership Of Information:** All information, documents, and electronic media prepared by or on behalf of the General Contractor for the Project shall be and remain the sole property of the City free of any retention rights of the General Contractor.
- 18.3 **Disclosure Of Information:** The General Contractor shall not disclose any information it receives from the City to any other person or entity except to the extent necessary to allow it to perform its duties under this Contract For Construction.
- 18.4 **Instructions To Employees:** Because it is difficult to separate proprietary and confidential information from that which is not, the General Contractor shall instruct its employees and agents to regard all information which is not in the public domain as proprietary and confidential.
- 18.5 **Non-Publication:** Submission or distribution of documents to meet official regulatory requirements or for other required purposes in connection with the Project is not to be construed as publication in derogation of the City's common law copyrights or other reserved rights.

ARTICLE 19 INSURANCE REQUIREMENTS

- 19.1 (See General Terms & Conditions)

ARTICLE 20 CITY'S RIGHT TO STOP WORK

- 20.1 **Cease And Desist Order:** If the General Contractor fails to perform, refuses to perform, or fails to correct defective Work as required, or if the General Contractor persistently fails to carry out the Work in accordance with the Contract, the City may, by written notice, order the General Contractor to cease and desist performing the Work. Upon receipt of such instruction, the General Contractor shall immediately cease and desist as instructed by the City and shall not proceed further until the cause for the City's order has been corrected, until the cause no longer exists, or until the City instructs the General Contractor in writing to resume performance of the Work.
- 20.1.1 The General Contractor shall not be entitled to an adjustment in the time for performance, or the Contract Price, as a result of any order to cease and desist, because any such stoppage is considered to be the fault of the General Contractor.
- 20.1.2 The right of the City to stop the Work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the General Contractor or any other individual or entity.
- 20.1.3 In the event the City issues instructions to cease and desist, and in the further event that the General Contractor fails and refuses within seven (7) calendar days to provide adequate assurance to the City that the cause of such instructions will be eliminated or corrected, then the City shall have the right, but not the obligation, to carry out the Work or any portion of the Work with its own forces, or with the forces of another contractor, and the General Contractor shall be responsible for the cost incurred by the City to carry out the Work.
- 20.1.4 The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the City may have against the General Contractor.

ARTICLE 21 APPLICABLE LAWS AND DISPUTE RESOLUTION

- 21.1 **Court Actions:** Except as expressly prohibited by law:
- i. all legal actions hereunder shall be litigated and prosecuted only in the state court districts located in Charlottesville, Virginia, and only in such courts which have subject matter

- jurisdiction with respect to the matter in controversy. Notwithstanding the foregoing, any final judgment may be enforced in other jurisdictions in any manner provided by law;
- ii. the choice of jurisdiction and venue described in the preceding paragraph shall be mandatory and not permissive in nature, thereby precluding the possibility of litigation or trial in any jurisdiction or venue other than that specified herein;
 - iii. the parties waive any right to assert the doctrine of forum *non conveniens* or to object to venue; and,
 - iv. the parties waive any right to a jury trial, and agree that all legal actions shall be tried, both as to factual and legal issues, only to the Court.

21.2 **Mutual Discussion:** In case of any dispute, claim, question or disagreement arising from or relating to the Project or arising out of this Contract For Construction or the breach thereof, the parties shall first attempt resolution through mutual discussion.

21.3 **Arbitration Preclusion:** In case of a dispute relating to the Project, or arising out of this Contract For Construction, no party to this Contract For Construction shall be required to participate in or be bound by, any arbitration proceedings.

ARTICLE 22 DAMAGES AND REMEDIES

22.1 **General Contractor's Repair:** The General Contractor shall, at its expense, promptly correct, repair, or replace all goods, products, materials, systems, labor and services which do not comply with the warranties and guarantees set forth in this Contract For Construction, or any other applicable warranty or guarantee.

22.2 **General Contractor's Reimbursement:** The General Contractor shall promptly reimburse the City for any expenses or damages incurred by the City as a result of (i) the General Contractor's failure to substantially perform in accordance with the terms of this Contract For Construction; (ii) deficiencies or conflicts in the Construction Documents attributable to the General Contractor or of which the General Contractor was or should have been aware; (iii) breach of the warranties and guarantees Set forth in this Contract For Construction or any other applicable warranty or guarantee; or (iv) other acts or omissions of the General Contractor.

22.3 **Non-Exclusivity Of City's Remedies:** The City's selection of any one or more remedies allowed by this Contract for breach hereof shall not limit the City's right to invoke any other remedy available to the City at law or by virtue of any other provision of this Contract.

22.4 **Waiver Of Damages:** The General Contractor shall not be entitled to, and hereby waives any monetary claims and damages, of any nature whatsoever, arising from or related to any of the following: lost income, lost profits, lost financing, loss of reputation, lost business opportunities, loss of management or employee productivity or of the services of such persons; unabsorbed overhead, and principal office expenses.

VI. SPECIAL TERMS AND CONDITIONS:

- I. **E-VERIFY PROGRAM:** The contractor shall register and participate in the E-Verify Program to verify information and work authorization of its newly hired employees performing work pursuant to the contract. The contractor should attach to their bid a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify. E-Verify is free for employers and it is a web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States. E-Verify can be accessed at <https://www.e-verify.gov/>.
- II. **RECORD KEEPING:** In accordance with generally accepted accounting procedures, the Contractor shall maintain books and records pertaining to funds received from the City and amounts expended by it in connection with this Agreement. The Contractor shall maintain such books and records for a period

of at least five (5) years following the expiration or earlier termination of this Agreement. Upon request, the City shall be entitled, at its own expenses, to obtain an audit of all funds received and expended by the Contract under this Agreement. Upon receipt of notice that the City desires and audit, the Contractor shall make its books and records available to the City and its auditor(s), and the Contractor shall cooperate with the audit.

VII. ATTACHMENTS:

- A. PRICING SCHEDULE
- B. WORKERS COMPENSATION CERTIFICATE OF COVERAGE
- C. SMALL-, WOMEN-, MINORITY-, MICRO, EMPLOYMENT SERVICES ORGANIZATIONS, AND VETERAN-OWNED BUSINESS OBJECTIVES
- D. CERTIFICATE OF NO COLUSION
- E. CONTRACTOR CERTIFICATION OF COMPLIANCE WITH VIRGINIA CODE SECTION 22.1-296.1

ATTACHMENT A

PRICING SCHEDULE

RFQ#: 24-53

Title: Washington Pool Filter Repairs

(Quotes must be submitted on this form)

Total Fixed Lump Sum for <u>filter media replacement and repairs at Washington Park Pool</u> as per all terms, conditions and specifications herein.	\$ _____ (Basis of Award)
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In compliance with this Request for Quotation and to all conditions imposed herein, the undersigned offers and agrees to furnish the goods/services at the price(s) indicated above.

Bidder acknowledges receipt of Addenda No. _____ through Addendum No. ____

Bidder has ☐ or has not ☐ visited and inspected the site. _____

By my signature on this solicitation, I certify that this firm/individual (and any sub-contractors) is properly licensed for providing the goods/services specified.

Bidder's Information:

Company Name: _____

Company Address: _____

Phone: _____ Fax: _____

Print Name & Title: _____ Date: _____

Signature: _____ email: _____

State Corporation Commission ID Number: _____

Virginia Contractor License No. (if required herein): _____

(Compliance with Virginia Code [§ 54.1-1115](#) regarding Contractor licensure as well as compliance with all applicable law is required.)

ATTACHMENT B

CITY OF CHARLOTTESVILLE
WORKERS' COMPENSATION
Certificate of Coverage

Section 2.2-4332, Code of Virginia, requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the City of Charlottesville.

Evidence of coverage must be provided prior to commencement of Work.

This form must be completed and returned to the City.

The undersigned organization stipulates that it:

- A. has workers' compensation insurance and is in compliance with the Workers' Compensation statutes of the Commonwealth of Virginia. ___ Yes ___ No
Insurance Company _____
Policy expiration date _____
- B. is self insured for workers' compensation. _____ Yes

Title of Construction Contract: _____

Contract Number: _____

Signed by: _____
Title: _____
Firm Name: _____
Address: _____

ATTACHMENT C

SMALL-, WOMEN-, MINORITY-, MICRO, EMPLOYMENT SERVICES ORGANIZATIONS, AND VETERAN-OWNED BUSINESS OBJECTIVES

It is an important business objective of the City of Charlottesville to promote the economic enhancement of small businesses (SBE) and micro businesses (O), women-owned businesses (WBE), minority-owned businesses (MBE), employment services organization (ESO) and veteran-owned businesses (VBE). The success of the City to track the amount of business received by SBE, WBE, MBE and VBE businesses, whether as a prime contractor or a subcontractor, is dependent upon the business community partnering with us in this important endeavor.

If you anticipate sub-contracting to any of these businesses in the performance of this contract, you are requested to individually report the total dollars for each business classification. Failure to report the dollars in the categories below may result in the application of stronger requirements being placed on bidders to assure that SBE, O, WBE, MBE, ESO and VBE businesses receive benefits from City contracts.

Complete the following information, and return this form with your bid.

1. If you are a SBE, O, WBE, MBE, ESO or VBE, please check one or more of the following boxes:

_____ SBE _____ O _____ WBE _____ MBE _____ ESO
_____ VBE

Certification #: _____ Expiration Date: _____

If certified by other than the Virginia Department of Small Business and Supplier Diversity provide the name and contact information, including phone number and website of certifying agency:

2. In the spaces below, report the anticipated dollars that you intend to subcontract to each business type if a contract is awarded to your company. If you do not intend to sub-contract any work to others, even if you are a SBE, O, WBE, MBE, ESO or VBE, put zeros in the spaces below.

Total **SBE** Dollars to be Sub-contracted \$ _____

Total **O** Dollars to be Sub-contracted \$ _____

Total **WBE** Dollars to be Sub-contracted \$ _____

Total **MBE** Dollars to be Sub-contracted \$ _____

Total **ESO** Dollars to be Sub-contracted \$ _____

Total **VBE** Dollars to be Sub-contracted \$ _____

3. If you are not a SBE, O, WBE, MBE, ESO or VBE, and you do not plan to utilize such firms in this contract, please state your reasons:

I certify the accuracy of this information.

Signed: _____ Title: _____ Date: _____

ATTACHMENT D

City of Charlottesville

CERTIFICATION OF NO COLLUSION

The undersigned, acting on behalf of _____, does hereby certify in connection with the procurement and bid to which this Certification of No Collusion is attached that:

This bid is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce; nor is this bid the result of, or effected by, any act of fraud punishable under Article 1.1 of Chapter 12 of Title 18.2 of the Code of Virginia, 1950 as amended (Sec.18.2-498.1 et seq.)

Signature of Company Representative

Name of Company

Date

ACKNOWLEDGMENT

STATE OF VIRGINIA

CITY OF CHARLOTTESVILLE, to-wit:

The foregoing Certification of No Collusion bearing the signature of _____ and dated _____ was subscribed and sworn to before the undersigned notary public by _____ on _____.

Notary Public

My Commission expires: _____

CODE OF VIRGINIA

Sec.18.2-498.4 Duty to provide certified statement. -

A. The Commonwealth, or any department or agency thereof, and any local government or any department or agency thereof, may require that any person seeking, offering or agreeing to transact business or commerce with it, or seeking, offering or agreeing to receive any portion of the public funds or moneys, submit a certification that the offer or agreement or any claim resulting therefrom is not the result of, or affected by, any act of business or commerce; or any act of fraud punishable under this article.

B. Any person required to submit a certified statement as provided in paragraph A above who knowingly makes a false statement shall be guilty of a Class 6 felony. (1980,c.472.

ATTACHMENT E

**CONTRACTOR CERTIFICATION OF COMPLIANCE
WITH VIRGINIA CODE SECTION 22.1-296.1**

Contractor: _____

Contract/Bid/Rfq No.: _____

Contractor acknowledges that any contract resulting from this solicitation for services may require Contractor, Contractor's employees or other persons within Contractor's control to have direct contact with City of Charlottesville Public School students on school property during regular school hours or during school-sponsored activities. As evidenced by the authorized signature below, Contractor hereby certifies to the City of Charlottesville and to the Charlottesville City School Board that all persons who will provide such services for or on behalf of the Contractor on public school property have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child, or the solicitation of any such offense; or any crime of moral turpitude.

Contractor hereby acknowledges that, pursuant to Virginia Code section 22.1-296.1, any person making a materially false statement regarding any such offense shall be guilty of a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services.

Contractor hereby agrees that this Certification shall be binding throughout the contract term, and that it will provide immediate notice to the City of Charlottesville and the Charlottesville City School Board of any event that renders this certification untrue.

Company Name

Printed Name and Title of Person Making Certification

Signature

Date